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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/753,702	01/07/2004	Joseph Salesky	PA2854US	8748

7590
Carr & Ferrell LLP
2200 Geng Road
Palo Alto, CA 94303

03/15/2006

EXAMINER

JEAN, FRANTZ B

ART UNIT	PAPER NUMBER
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2151

DATE MAILED: 03/15/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/753,702	Applicant(s) SALESKY ET AL.	
	Examiner Frantz B. Jean	Art Unit 2151	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 07 January 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 23-54 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 23-54 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|--|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input checked="" type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>5/1704, 12/16/04</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

This office action is in response to an application for patent filed on 01/07/2004. Claims 23-51 are presented for examination.

Information Disclosure Statement

The information disclosure statement (IDS) submitted on 5/17/04 and 12/16/04 is in compliance with the provisions of 37 CFR 1.97. Accordingly, the information disclosure statement is being considered by the examiner.

Specification

The disclosure is objected to because of the following informalities: On page 2, at the beginning of line 29, there are two "are not". Please delete one of them.

Appropriate correction is required.

The lengthy specification has not been checked to the extent necessary to determine the presence of all possible minor errors. Applicant's cooperation is requested in correcting any errors of which applicant may become aware in the specification.

Claim Rejections - 35 USC § 112

Claim 24 recites the limitation "the output data type format". There is insufficient antecedent basis for this limitation in the claim.

Double Patenting

The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the

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unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. A nonstatutory obviousness-type double patenting rejection is appropriate where the conflicting claims are not identical, but at least one examined application claim is not patentably distinct from the reference claim(s) because the examined application claim is either anticipated by, or would have been obvious over, the reference claim(s). See, e.g., *In re Berg*, 140 F.3d 1428, 46 USPQ2d 1226 (Fed. Cir. 1998); *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) or 1.321(d) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent either is shown to be commonly owned with this application, or claims an invention made as a result of activities undertaken within the scope of a joint research agreement.

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

Claims 23, 43 and 46 are rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claim 1, 2 and 7 of U.S. Patent No. 6,343,313. Although the conflicting claims are not identical, they are not patentably distinct from each other because the claims of the instant application are broader than the claims of US patent Number "313". All the concept and limitations of the claims in application "702" are included in the claims of US patent "313". Therefore, it is concluded that the claims of application number "702" are inherent in the claims of US patent "313".

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

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A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 23-54 are rejected under 35 U.S.C. 102(e) as being anticipated by Tung et al. US patent Number 5,859,979.

As per claim 1, Tung teaches a conferencing system (fig 1 element 100) comprising:

A conference server and at least one client (Tung discloses two PC (100) that are exchanging information see col. 3 line 65 to col. 4 lines 15; in addition, Tung discloses a conference manager (can be interpreted as conference server that coordinates connection/communication (see col. 19 line 22 to col. 20 line 8); network connections coupling the conference server and the at least one client (see col. 19 line 22 to col. 20 line 8). Tung implicitly and explicitly discloses conference server providing data updates to the at least one client via network connection, where the data updates are delivered in an output data type based on conferencing system connection or load parameters (The control channel enables conferencing application 502 to inform (update) peer of events (e.g., mute on and mute off) and transfer arbitrary size information. In general, the application control channel can be used to transmit any data. For example, conferencing application 502 has an "audio/video mute" feature, which allows a video conferencing participant to click on a button so that he/she is no longer visible to the other conference participant. The peer application must be informed

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about this operation so that it can discontinue displaying the video image and instead display some indication that the other side turned mute on (col. 15 line 64 to col. 15 line 8); (col. 26 lines 30-42); (It, conference manager, provides a nice mechanism to inform (update) applications about events such as "connection established" and "connection torn down." col. 19 lines 50-52).

As per claims 24-26, Tung teaches changing output data format (data are reconstructed, compressed and decompressed see col. 5 lines 16-39; lines 45 et seq).

As per claims 27-28, Tung discloses differenced compressed and uncompressed data (audio/video see col. 5 lines 9 et seq).

As per claim 29, Tung teaches updates or information that are transmitted to clients in parallel (see col. 25 lines 41-49).

As per claims 30-32, Tung teaches connection or load parameters of conference server, at least one client, and network connections (see fig 5; col. 19 line 22 to col. 20 line 9).

As per claim 33, Tung teaches a method for conferencing between a server and at least one client in a conferencing system comprising: establishing a network connection between the server and at least one client (see col. 19 line 22 to col. 20 line 8); providing conferencing data from the server to the at least one client (see col. 19 line 22 to col. 20 line 8); conferencing data in a format based on conferencing system parameters and changing the format based on changes to the conferencing system parameters (see col. 5 line 9 to col. 6 line 44 of the specification).

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As per claim 34, Tung teaches changing format that occurs dynamically (D/A and A/D conversion col. 5 lines 27-57; col. 6 lines 6-44).

As per claims 35, Tung teaches network connection speeds or loads (process for negotiating conferencing capabilities col. 1 lines 54 et seq).

As per claim 36, Tung teaches loads (capabilities) of the at least one client (Conferencing API A sends a Capabilities Request on the control channel, specifying conference requirements, which Conferencing API B receives. Conferencing API B sends a Capabilities Response on the control channel, accepting or modifying ~ conference requirements, which Conferencing API A receives col. 29, lines 46-52).

As per claim 37, Tung teaches server loads (capabilities) (In a conferencing network comprising preferred embodiments of conferencing system 100, only one site need be running a conferencing application before information sharing can be initiated.

Moreover, if possible, the same application on the remote site is launched to complete the sharing. Conference manager 544 of FIG. 5 provides these capabilities. Conference manager 544 allows an application to install, register/unregister, make/hang-up calls, and establish/destroy communication channels. After successfully placing a call to a remote site, a conferencing application may try to establish a communication channel. In the process of establishing communication channels, the application is capable of being launched remotely if it is necessary. To accomplish this, all conferencing applications are assigned a unique application ID (i.e., APPID) col. 24 lines 21-34).

As per claim 38, Tung implicitly and explicitly teaches data updates from the server to the at least one client (The control channel enables conferencing application 502 to inform (update) peer of events (e.g., mute on and mute off) and transfer arbitrary size information. In general, the application control channel can be used to transmit any data. For example, conferencing application 502 has an "audio/video mute" feature, which allows a video conferencing participant to click on a button so that he/she is no longer visible to the other conference participant. The peer application must be informed about this operation so that it can discontinue displaying the video image and instead display some indication that the other side turned mute on (col. 15 line 64 to col. 15 line 8); (col. 26 lines 30-42); (It, conference manager, provides a nice mechanism to inform (update) applications about events such as "connection established" and "connection torn down." col. 19 lines 50-52).

As per claims 39-42, they contain the same limitations as discussed claims 25-28 above. Therefore, they are rejected under the same rationale.

As per claims 43 and 45, they contain the same limitations as discussed in claim 33 above. Therefore, they are rejected under the same rationale.

As per claim 44, Tung implicitly and explicitly teaches data updates from the server to the at least one client (The control channel enables conferencing application 502 to inform (update) peer of events (e.g., mute on and mute off) and transfer arbitrary size information. In general, the application control channel can be used to transmit any data. For example, conferencing application 502 has an "audio/video mute" feature,

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which allows a video conferencing participant to click on a button so that he/she is no longer visible to the other conference participant. The peer application must be informed about this operation so that it can discontinue displaying the video image and instead display some indication that the other side turned mute on (col. 15 line 64 to col. 15 line 8); (col. 26 lines 30-42); (It, conference manager, provides a nice mechanism to inform (update) applications about events such as "connection established" and "connection torn down." col. 19 lines 50-52).

As per claim 46, it contains the same limitations as discussed in claim 23 above.

Therefore, it is rejected under the same rationale.

As per claims 47-50, they contain the same limitations as discussed in claims 35-38 above. Therefore, they are rejected under the same rationale.

As per claim 51, Tung teaches a conferencing system (fig 1 element 100) comprising: A conference server and at least one client (Tung discloses two PC (100) that are exchanging information see col. 3 line 65 to col. 4 lines 15; in addition, Tung discloses a conference manager (can be interpreted as conference server that coordinates connection/communication network connections coupling the conference server and the at least one client (see col. 19 line 22 to col. 20 line 8), the conference server providing conferencing data to the at least one client via the network connections, where the conferencing data is provided in an output based on a determined size of at least a portion of the conferencing data (see col. 14 lines 64 to col. 15 line 30; col. 75 line 65 to col. 76 line 31).

As per claim 52, Tung teaches a conferencing system (fig 1 element 100) comprising: A conference server and at least one client (Tung discloses two PC (100) that exchanging information (col. 3 line 65 to col. 4 line 15); in addition Tung discloses a conference manager (can be interpreted as conference server that coordinates connection/communication (see col. 19 line 22 to col. 20 line 8); network connections coupling the conference server and the at least one client (see col. 19 line 22 to col. 20 line 8), the conference server providing conferencing data to the at least one client via the network connections, where the conferencing data is provided in a compressed format (see col. 5 line 9 et seq).

As per claim 53, Tung teaches a method for conferencing between a server and at least one client in a conferencing system comprising: establishing a network connection between the server and at least one client (see col. 19 line 22 to col. 20 line 8); determining a size of conferencing data; and providing at least a portion of the conferencing data from the server to the at least one client, the conferencing data in a format based on the determined size of at least a portion of the conferencing data (see col. 14 lines 64 to col. 15 line 30; col. 75 line 65 to col. 76 line 31).

As per claim 54, Tung teaches a method for conferencing between a server and at least one client in a conferencing system comprising: establishing a network connection between the server and at least one client (see col. 19 line 22 to col. 20 line 8); determining a type of compression to be used and providing conferencing data from the server to the at least one client, the conferencing data in a format based on the

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determined type of compression to be used (col. 5 line 9 to col. 6 line 44 of the specification).

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Choquier et al. (5774668) includes loading condition of servers.

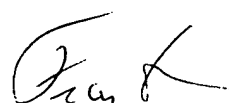
Nblett (US 5802322) discloses updates in a data conferencing.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Frantz B. Jean whose telephone number is 571-272-3937. The examiner can normally be reached on 8:30-6:00 M-f.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Zarni Maung can be reached on 571 272 3939. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Frantz Jean


FRANTZ B. JEAN
PRIMARY EXAMINER